

## CLAIM OF YUKI ISHINO

[No. 146-35-3058. Decided September 30, 1953]

## FINDINGS OF FACT

This claim, in the amount of \$2,235, was received by the Attorney General on April 27, 1949. The entire claim is for the loss of claimant's removable building on Terminal Island. The building was situated on a parcel of land known as No. 313, owned by the City of Los Angeles and leased to claimant under a revocable 30-day permit. Official records reveal that claimant's permit had been canceled on February 14, 1942; that the United States acquired title to the land including Parcel No. 313 and improvements thereon by a Declaration of Taking filed March 25, 1942; and that in connection with the condemnation proceedings an official appraisal was made which fixed a value of \$300 for the improvements on Parcel No. 313. Claimant has acknowledged receipt of the \$300 award in the condemnation proceedings and now seeks to recover the difference between the alleged value of the improvements, \$2,625, and the \$300 award, or \$2,325.

## REASONS FOR DECISION

No part of the claim is allowable under the above-cited Act because: Determination of the value of the building is *res judicata*. In a similar case, *Southern California Fishermen's Association et al. v. United States*, 174 F. 2d 739, the court said:

Appellants occupied Terminal Island at the time of taking under the express condition that they were to vacate the land within 30 days, with the right to take such improvements as they saw fit. The net worth of the improvements was thus subject to that condition.

Appellants' loss, insofar as just compensation is concerned, was no greater than the legal rights allowed under the permits which, after service of notice of termination, was the removal value plus the right to retain them upon the land for 30 days.

The value of claimant's house having been judicially determined in *United States v. Forty Acres of Land in the County of Los Angeles, State of California, etc., et al.*, No. 2078-H Civil, decided April 4, 1949, in the United States District Court for the Southern District of California, claimant cannot recover under the Act above cited, Section 1 of which provides that recovery thereunder may be had "when such claim is not compensated for by insurance or otherwise \* \* \*." [Emphasis supplied.]